

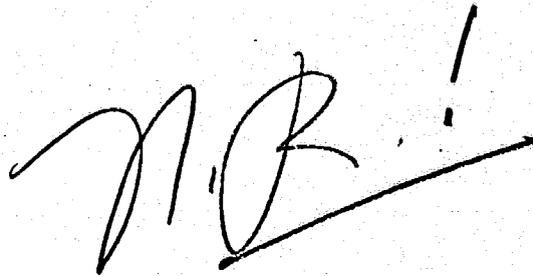
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June 10, 1952

Opinion No. 52-180

Mr. Wes Polley
Cochise County Attorney
Courthouse
Bisbee, Arizona



Dear Mr. Polley:

You wrote on May 26, asking the following question:

"Whether or not it is mandatory for the Board of Supervisors to put the pay increase (of chief deputy county officers) into effect on July 1, 1952? Or, whether or not it is mandatory that it be put into effect as of January 1, 1953." (Parts within brackets and underline added)

Our answer is in the negative to both parts of the question, and in substantiation, we wish to make the following observations:

1. Deputy county officers, being appointed and whose employment is not for a definite period, are not within the class of officials whose salary, by constitutional restriction, cannot be increased during any fixed period of time.
2. The Salary Act of 1952 (Chapter 37, H.B. 124), in Section 8 (d) and (e), provides as follows:

"(d) In a county of the first class having a population of less than one hundred thousand,

Mr. Wes Polley
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June 10, 1952
Opinion No. 52-180
Page two

county officers shall receive the following annual salaries: Sheriff, seven thousand two hundred dollars; county attorney, six thousand dollars; clerk of the superior court, six thousand dollars; recorder, six thousand dollars; treasurer and ex-officio tax collector, six thousand dollars; assessor, six thousand six hundred dollars; superintendent of schools, six thousand dollars; chairman of the board of supervisors, three thousand six hundred dollars, and members of the board of supervisors other than the chairman, three thousand three hundred dollars each.

(e) Each of the officers named in subsection (d), other than the board of supervisors, may appoint a chief deputy, who shall receive an annual salary agreed upon by the officer appointing the deputy and the members of the board of supervisors, in an amount not to exceed the following: For deputy sheriff, five thousand four hundred dollars; for deputy county attorney, four thousand eight hundred dollars; for deputy clerk of the court, four thousand eight hundred dollars; for deputy recorder, four thousand eight hundred dollars; for deputy treasurer, four thousand eight hundred dollars; for deputy assessor, four thousand eight hundred dollars, and for deputy superintendent of schools, four thousand eight hundred dollars;" (Emphasis supplied)

Mr. Wes Polley
Cochise County Attorney
Bisbee, Arizona

June 10, 1952
Opinion No. 52-180
Page three

and in this connection, please note well the underlined parts.

3. Following the above, it is apparent that (a) the salaries of deputies provided for are subject to confirmation by the "officer appointing the deputy and the members of the board of supervisors"; (b) that such salaries are maximums; (c) there is no compulsion on the part of the employer, so to speak, to pay that maximum amount, and (d) while pay raises may, by agreement of the necessary parties, be effective June 26, 1952, there is nothing compelling or making mandatory the payment of salaries of deputies in the maximum, or any lesser amount, either on July 1, 1952, on January 1, 1953, or at any time.

In short, the amount of salaries of deputies is subject only to the maximum amounts shown in the law. The amounts to be paid, under or at the maximum, and the time of commencement, are subject to the agreed will of the officer and the Board of Supervisors and, of course and necessity, to the budgetary control limits.

Very truly yours,

FRED O. WILSON
Attorney General

JOSEPH A. CROWE
Assistant Attorney General